

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.) Civil Action No. 04-10642-RWZ
)
928 OAKLEY STREET, NEW BEDFORD,)
MASSACHUSETTS,)
Defendant.)

MOTION TO AMEND VERIFIED COMPLAINT FOR FORFEITURE IN REM

The United States, by and through its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, hereby moves that this Court allow for the filing of an Amended Verified Complaint for Forfeiture in Rem. In support thereof, the United States sets forth the following:

1. On April 2, 2004, the Plaintiff, the United States of America, filed a Verified Complaint for Forfeiture in Rem (the "Complaint") against the real property, including all buildings and appurtenances, located at 928 Oakley Street, New Bedford, Massachusetts (the "Defendant Property").

2. The Affidavit of Special Daniel J. Forde, filed in support of the Complaint, alleges that the Defendant Property is property that was used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of a violation of the Controlled Substances Act. Therefore, the Defendant Property is forfeitable to the United States based on the provisions of Title 21, United States Code, Section 881(a)(7).

References to Title 21, United States Code, Section 881(a)(6) have been deleted.

3. Rule 15(a) of the Federal Rules of Civil Procedures provides in relevant part that a "party may amend its pleading at any time before a responsive pleading is served". Tavares v. United States, 230 F.Supp.2d 126, at 134 (D.Mass.)

4. Notwithstanding Rule 15(a), leave to amend shall be given freely by the court "in the absence of any apparent or declared reasons - such as undue delay, bad faith or dilatory motive on the part of the movant....". Id. at 134

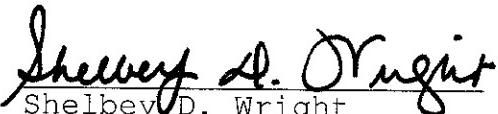
5. No person has filed a responsive pleading on behalf of the in Rem Defendant Property to date; therefore, no party will be prejudiced by the Court's granting of the United States' Motion to Amend its Verified Complaint for Forfeiture in Rem.

WHEREFORE, the United States respectfully moves this Court to grant its Motion to Amend its Verified Complaint for Forfeiture in Rem.

Respectfully submitted,

MICHAEL J. SULLIVAN,
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Date: April 16, 2004